

By: Senator(s) Nunnelee

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2920

1 AN ACT TO AMEND SECTIONS 73-15-17, 73-15-18, 73-15-27,
2 73-15-29 AND 73-15-35, MISSISSIPPI CODE OF 1972, RELATING TO THE
3 NURSE PRACTICE ACT; TO CLARIFY THE LOCATION OF THE BOARD OFFICE;
4 TO CLARIFY THE RESPONSIBILITIES OF THE OFFICE OF NURSING
5 WORKFORCE; TO CLARIFY THE LICENSE RENEWAL PROCEDURE; TO AUTHORIZE
6 SUMMARY SUSPENSION OF LICENSE BY THE BOARD IN EMERGENCY
7 SITUATIONS; TO CLARIFY PARTIES WHO MAY SEEK INJUNCTIVE RELIEF FOR
8 VIOLATIONS OF THE NURSE PRACTICE ACT; TO REPEAL SECTIONS 73-15-22
9 AND 73-15-23, MISSISSIPPI CODE OF 1972, WHICH IS THE NURSE
10 LICENSURE INTERSTATE COMPACT AND PROVISIONS RELATING TO THE
11 WITHDRAWAL FROM THE COMPACT; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 73-15-17, Mississippi Code of 1972, is
14 amended as follows:

15 73-15-17. The Mississippi Board of Nursing is authorized and
16 empowered to:

17 (a) Adopt and from time to time revise such rules and
18 regulations consistent with the law as shall be necessary to
19 govern its proceedings and carry into effect the provisions of
20 this chapter.

21 (b) Require the secretary to keep records of all
22 meetings of the board and keep a record of all proceedings, and to
23 prepare a register of registered nurses and a register of licensed
24 practical nurses, all nurses appearing thereon to be duly licensed
25 under this chapter, and which registers shall be open for public
26 inspection at all reasonable times.

27 (c) Issue subpoenas, require attendance of witnesses,
28 and administer oaths of persons giving testimony.

29 (d) Cause the prosecution of all persons violating the
30 provisions of this chapter, and incur such necessary expenses
31 therefor.

32 (e) Conduct hearings upon charges calling for
33 discipline of a licensee or revocation of a license or of the
34 privilege to practice.

35 (f) Present a true and full report to the Governor and
36 the Legislature, together with statement of receipts and
37 disbursements on or before February 1 of each year.

38 (g) Maintain an office in the greater Jackson area for
39 the administration of this chapter.

40 (h) File an annual list of all certificates of
41 registration issued by the board with the Secretary of State's
42 office for both registered nurses and licensed practical nurses.

43 (i) File an annual list of all certificates of
44 registration issued by the board to registered nurses, including
45 addresses of the persons with the Mississippi Nurses' Association;
46 and file a similar list of all certificates of registration issued
47 to licensed practical nurses, including addresses of the persons,
48 with the Mississippi Federation of Licensed Practical Nurses and
49 the Mississippi Licensed Practical Nurses Association.

50 (j) Adopt a seal which shall be in the form of a circle
51 with the image of an eagle in the center, and around the margin
52 the words "Mississippi Board of Nursing," and under the image of
53 the eagle the word "Official." The seal shall be affixed to
54 certificates and warrants issued by the board, and to all records
55 sent up on appeal from its decisions.

56 (k) Schedule dates and locations for state board
57 examinations for examining qualified applicants for licensure.

58 (l) Examine, license and renew licenses of duly
59 qualified applicants.

60 (m) Appoint and employ a qualified person who shall not
61 be a member of the board to serve as executive director, define
62 the duties, fix the compensation, and delegate to him or her those
63 activities that will expedite the functions of the board. The

64 executive director shall meet all the qualifications for board
65 members, and shall in addition:

66 (i) Have had at least a master's degree in
67 nursing, eight (8) years' experience as a registered nurse, five
68 (5) of which shall be in teaching or in administration, or a
69 combination thereof; and

70 (ii) Have been actively engaged in nursing for at
71 least five (5) years immediately preceding appointment.

72 (n) Employ, discharge, define duties, and fix
73 compensation of such other persons as may be necessary to carry
74 out the provisions of this chapter.

75 (o) Secure the services of research consultants as
76 deemed necessary who shall receive a per diem, travel and other
77 necessary expenses incurred while engaged by the board.

78 (p) To enter into contracts with any other state or
79 federal agency or with any private person, organization or group
80 capable of contracting, if it finds such action to be in the
81 public interest and in the furtherance of its responsibilities.

82 **SECTION 2.** Section 73-15-18, Mississippi Code of 1972, is
83 amended as follows:

84 73-15-18. (1) The Mississippi Board of Nursing is
85 designated as the state agency responsible for the administration
86 and supervision of the Nursing Workforce Program as an educational
87 curriculum in the State of Mississippi. It is the intent of the
88 Legislature to develop a nursing workforce able to carry out the
89 scope of service and leadership tasks required of the profession
90 by promoting a strong educational infrastructure between nursing
91 practice and nursing education.

92 (2) The Mississippi Board of Nursing is authorized to
93 establish an Office of Nursing Workforce within the administrative
94 framework of the board for the purpose of providing coordination
95 and consultation to nursing education and practice. The Nursing

96 Workforce Program shall encompass five (5) interdependent
97 components:

98 (a) Develop and facilitate implementation of a state
99 educational program directed toward nursing educators regarding
100 health care delivery system changes resulting from managed care,
101 case management and capitated health finance systems and the
102 impact these changes will have on curriculum and on the service
103 needs of nurses.

104 (b) Determine the continuing education needs of the
105 nursing workforce * * * and facilitate such continuing education
106 coursework through the university/college schools of nursing in
107 the state and the community/junior college nursing programs in the
108 state.

109 (c) Promote and coordinate through the schools of
110 nursing opportunities for nurses prepared at the associate degree
111 and bachelor degree levels to obtain higher degrees.

112 (d) Apply for and administer grants from public and
113 private sources for the development of the Nursing Workforce
114 Program prescribed in this section.

115 (e) Establish systems to ensure an adequate supply of
116 nurses to meet the health care needs of the citizens of
117 Mississippi. This will include, but is not limited to, gathering
118 and quantifying dependable data on current nursing workforce
119 capacities and forecasting future requirements. The Office of
120 Nursing Workforce will report its findings annually to the
121 Mississippi Legislature.

122 (3) Pursuant to the provisions of subsections (1) and (2),
123 the Board of Nursing is authorized to provide for the services of
124 an Office of Nursing Workforce Director and such other
125 professional and nonprofessional staff as may be needed and as
126 funds are available to the Board of Nursing to implement the
127 Nursing Workforce Program prescribed in this section. It shall be
128 the responsibility of such professional staff to coordinate

129 efforts of the bachelor degree schools of nursing, the associate
130 degree schools of nursing and other appropriate agencies in the
131 State of Mississippi to implement the Nursing Workforce Program.

132 (4) The Board of Nursing shall appoint a Nursing Workforce
133 Advisory Committee composed of health care professionals, health
134 agency administrators, nursing educators and other appropriate
135 individuals to provide technical advice to the Office of Nursing
136 Workforce created in this section. The members of the committee
137 shall be appointed by the Board of Nursing from a list of nominees
138 submitted by appropriate nursing and health care organizations in
139 the State of Mississippi. The members of the committee shall
140 receive no compensation for their services, but may be reimbursed
141 for actual travel expenses and mileage authorized by law for
142 necessary committee business.

143 (5) All funds made available to the Board of Nursing for the
144 purpose of nursing workforce shall be administered by the board
145 office for that purpose. The Board of Nursing is authorized to
146 enter into contract with any private person, organization or
147 entity capable of contracting for the purpose of administering
148 this section.

149 (6) The Nursing Workforce Program and the Office of Nursing
150 Workforce provided for in this section will be established and
151 implemented only if sufficient funds are appropriated to or
152 otherwise available to the Board of Nursing for that purpose.

153 **SECTION 3.** Section 73-15-27, Mississippi Code of 1972, is
154 amended as follows:

155 73-15-27. The license of every person licensed under the
156 provisions of this chapter shall be renewed biennially except as
157 hereinafter provided:

158 (a) Registered nurses:

159 (i) The license to practice as a registered nurse
160 shall be valid for two (2) calendar years, beginning January 1 of
161 each uneven-numbered year and expiring December 31 in each

162 even-numbered year of the biennial period and subject to renewal
163 for each period of two (2) years thereafter.

164 (ii) A notice for renewal of licensure will be
165 mailed by the board on or before November 1 of the year the
166 license expires to every person to whom a license was issued or
167 renewed during the biennial period. An application shall be
168 completed and returned to the board by December 31 of that year
169 with the biennial renewal fee to be set at the discretion of the
170 board, but not to exceed Fifty Dollars (\$50.00).

171 (iii) Upon receipt of the application and fee, the
172 board shall verify the accuracy of the application and issue to
173 the applicant a certificate of renewal for the ensuing period of
174 two (2) years. Such renewal shall render the holder thereof the
175 right to practice as a registered nurse.

176 (iv) A registered nurse may request in writing to
177 the board that his or her license be placed on inactive status.
178 The board may grant such request and shall have authority, in its
179 discretion, to attach conditions to the licensure of such
180 registered nurse while on inactive status. A biennial renewal fee
181 for inactive registered nurses shall be set at the discretion of
182 the board, not to exceed Fifty Dollars (\$50.00).

183 (v) Any registered nurse applying for a license,
184 renewal of an active license, reinstatement of a lapsed license,
185 or change from inactive to active status may be required to
186 provide evidence of continuing basic nursing competencies when
187 such nurse has not practiced nursing for compensation or performed
188 the function of a registered nurse in a voluntary capacity with or
189 without compensation within the five-year period immediately prior
190 to such application for a license, renewal, reinstatement or
191 change of status.

192 (vi) Any registered nurse who permits his or her
193 license to lapse by failing to renew the license as provided above
194 may be reinstated by the board on satisfactory explanation for

195 such failure to renew his or her license, by compliance with all
196 other applicable provisions of this chapter, by completion of a
197 reinstatement form, and upon payment of a reinstatement fee not to
198 exceed One Hundred Dollars (\$100.00) which shall not include the
199 renewal fee for the current biennial period. Any registered nurse
200 who permits his or her license to lapse shall be notified by the
201 board within fifteen (15) days of such lapse.

202 (vii) Any person practicing as a registered nurse
203 during the time his or her license has lapsed shall be considered
204 in violation of this chapter and shall be subject to the penalties
205 provided for violation of this chapter, provided the registered
206 nurse has not submitted the required reinstatement form and fees
207 within fifteen (15) days after notification by the board of such
208 lapse.

209 (b) Licensed practical nurses:

210 (i) The license to practice as a licensed
211 practical nurse shall be valid for two (2) calendar years,
212 beginning January 1 of each even-numbered year and expiring
213 December 31 in each uneven-numbered year of the biennial period
214 and subject to renewal for each period of two (2) years
215 thereafter.

216 (ii) A notice for renewal of licensure will be
217 mailed by the board on or before November 1 of the year the
218 license expires to every person to whom a license was issued or
219 renewed during the biennial period. An application shall be
220 completed and returned to the board by December 31 of that year
221 with the biennial renewal fee to be set at the discretion of the
222 board, but not to exceed Fifty Dollars (\$50.00).

223 (iii) Upon receipt of the application and fee, the
224 board shall verify the accuracy of the application and issue to
225 the applicant a certificate of renewal for the ensuing period of
226 two (2) years. Such renewal shall render the holder thereof the
227 right to practice as a licensed practical nurse.

228 (iv) A licensed practical nurse may request in
229 writing to the board that his or her license be placed on inactive
230 status. The board may grant such request and shall have
231 authority, in its discretion, to attach conditions to the
232 licensure of such licensed practical nurse while on inactive
233 status. A biennial renewal fee for inactive licensed practical
234 nurses shall be set at the discretion of the board, not to exceed
235 Fifty Dollars (\$50.00).

236 (v) Any licensed practical nurse applying for a
237 license, renewal of an active license, reinstatement of a lapsed
238 license, or change from inactive to active status may be required
239 to provide evidence of continuing basic nursing competencies when
240 such nurse has not practiced nursing for compensation or performed
241 the function of a licensed practical nurse in a voluntary capacity
242 with or without compensation within the five-year period
243 immediately prior to such application for a license, renewal,
244 reinstatement or change of status.

245 (vi) Any licensed practical nurse who permits his
246 or her license to lapse by failing to renew the license as
247 provided above may be reinstated by the board upon satisfactory
248 explanation for such failure to renew his or her license, by
249 compliance with all other applicable provisions of this chapter,
250 by completion of a reinstatement form, and upon payment of the
251 reinstatement fee not to exceed One Hundred Dollars (\$100.00),
252 which shall not include the renewal fee for the current biennial
253 period. Any licensed practical nurse who permits his or her
254 license to lapse shall be notified by the board within fifteen
255 (15) days of such lapse.

256 (vii) Any person practicing as a licensed
257 practical nurse during the time his or her license has lapsed
258 shall be considered an illegal practitioner and shall be subject
259 to the penalties provided for violation of this chapter, provided
260 the licensed practical nurse has not submitted the required

261 reinstatement form and fees within fifteen (15) days after
262 notification by the board of such lapse.

263 **SECTION 4.** Section 73-15-29, Mississippi Code of 1972, is
264 amended as follows:

265 73-15-29. (1) The board shall have power to revoke, suspend
266 or refuse to renew any license issued by the board, or to revoke
267 or suspend any privilege to practice, or to deny an application
268 for a license, or to fine, place on probation and/or discipline a
269 licensee, in any manner specified in this chapter, upon proof that
270 such person:

271 (a) Has committed fraud or deceit in securing or
272 attempting to secure such license;

273 (b) Has been convicted of felony, or a crime involving
274 moral turpitude or has had accepted by a court a plea of nolo
275 contendere to a felony or a crime involving moral turpitude (a
276 certified copy of the judgment of the court of competent
277 jurisdiction of such conviction or pleas shall be prima facie
278 evidence of such conviction);

279 (c) Has negligently or willfully acted in a manner
280 inconsistent with the health or safety of the persons under the
281 licensee's care;

282 (d) Has had a license or privilege to practice as a
283 registered nurse or a licensed practical nurse suspended or
284 revoked in any jurisdiction, has voluntarily surrendered such
285 license or privilege to practice in any jurisdiction, has been
286 placed on probation as a registered nurse or licensed practical
287 nurse in any jurisdiction or has been placed under a disciplinary
288 order(s) in any manner as a registered nurse or licensed practical
289 nurse in any jurisdiction, (a certified copy of the order of
290 suspension, revocation, probation or disciplinary action shall be
291 prima facie evidence of such action);

292 (e) Has negligently or willfully practiced nursing in a
293 manner that fails to meet generally accepted standards of such
294 nursing practice;

295 (f) Has negligently or willfully violated any order,
296 rule or regulation of the board pertaining to nursing practice or
297 licensure;

298 (g) Has falsified or in a repeatedly negligent manner
299 made incorrect entries or failed to make essential entries on
300 records;

301 (h) Is addicted to or dependent on alcohol or other
302 habit-forming drugs or is a habitual user of narcotics,
303 barbiturates, amphetamines, hallucinogens, or other drugs having
304 similar effect, or has misappropriated any medication;

305 (i) Has a physical, mental or emotional condition that
306 renders the licensee unable to perform nursing services or duties
307 with reasonable skill and safety;

308 (j) Has engaged in any other conduct, whether of the
309 same or of a different character from that specified in this
310 chapter, that would constitute a crime as defined in Title 97 of
311 the Mississippi Code of 1972, as now or hereafter amended, and
312 that relates to such person's employment as a registered nurse or
313 licensed practical nurse;

314 (k) Engages in conduct likely to deceive, defraud or
315 harm the public;

316 (l) Engages in any unprofessional conduct as identified
317 by the board in its rules; or

318 (m) Has violated any provision of this chapter.

319 (2) When the board finds any person unqualified because of
320 any of the grounds set forth in subsection (1) of this section, it
321 may enter an order imposing one or more of the following
322 penalties:

323 (a) Denying application for a license or other
324 authorization to practice nursing or practical nursing;

325 (b) Administering a reprimand;

326 (c) Suspending or restricting the license or other
327 authorization to practice as a registered nurse or licensed
328 practical nurse for up to two (2) years without review;

329 (d) Revoking the license or other authorization to
330 practice nursing or practical nursing;

331 (e) Requiring the discipline to submit to care,
332 counseling or treatment by persons and/or agencies approved or
333 designated by the board as a condition for initial, continued or
334 renewed licensure or other authorization to practice nursing or
335 practical nursing;

336 (f) Requiring the discipline to participate in a
337 program of education prescribed by the board as a condition for
338 initial, continued or renewed licensure or other authorization to
339 practice;

340 (g) Requiring the discipline to practice under the
341 supervision of a registered nurse for a specified period of time;
342 or

343 (h) Imposing a fine not to exceed Five Hundred Dollars
344 (\$500.00).

345 (3) In addition to the grounds specified in subsection (1)
346 of this section, the board shall be authorized to suspend the
347 license or privilege to practice of any licensee for being out of
348 compliance with an order for support, as defined in Section
349 93-11-153. The procedure for suspension of a license or privilege
350 to practice for being out of compliance with an order for support,
351 and the procedure for the reissuance or reinstatement of a license
352 or privilege to practice suspended for that purpose, and the
353 payment of any fees for the reissuance or reinstatement of a
354 license or privilege to practice suspended for that purpose, shall
355 be governed by Section 93-11-157 or 93-11-163, as the case may be.
356 If there is any conflict between any provision of Section
357 93-11-157 or 93-11-163 and any provision of this chapter, the

358 provisions of Section 93-11-157 or 93-11-163, as the case may be,
359 shall control.

360 (4) If the public health, safety or welfare imperatively
361 requires emergency action and incorporates a finding to that
362 effect in an order, summary suspension of a license may be ordered
363 pending proceedings for revocation or other action. These
364 proceedings shall be promptly instituted and determined.

365 **SECTION 5.** Section 73-15-35, Mississippi Code of 1972, is
366 amended as follows:

367 73-15-35. The practice of nursing as a registered nurse or
368 the practice of nursing as a licensed practical nurse by any
369 person who has not been issued a license or who does not hold the
370 privilege to practice under the provisions of this chapter, or
371 whose license or privilege to practice has been suspended or
372 revoked, or has expired and not been reinstated, or has
373 negligently or willfully practiced nursing in a manner that fails
374 to meet generally accepted standards of such nursing practice, is
375 declared to be a danger to the public health and welfare and shall
376 be enjoined through appropriate court action. In addition to and
377 not in lieu of any other civil, criminal or disciplinary remedy,
378 the Attorney General, the Board of Nursing or the prosecuting
379 attorney of any county where a person is practicing or purporting
380 to practice as a registered nurse or as a licensed practical nurse
381 in violation of this chapter may, in accordance with the laws of
382 this state governing injunctions, maintain an action to enjoin
383 that person from practicing as a registered nurse or a licensed
384 practical nurse until in compliance with this chapter. The court
385 may issue a temporary injunction without notice or without bond
386 enjoining a defendant from further practicing as a registered
387 nurse or a licensed practical nurse. If it is established to the
388 satisfaction of the court that the defendant has been or is
389 practicing as a registered nurse or a licensed practical nurse
390 without being licensed or privileged to practice and in good

391 standing as provided herein, the court may enter a decree
392 perpetually enjoining the defendant from such further activities,
393 and a subsequent violation of which may be considered as contempt
394 of court by any court of competent jurisdiction. Such injunction
395 and contempt proceedings may be in addition to and not in lieu of
396 any other penalties and remedies provided by this chapter.

397 **SECTION 6.** Sections 73-15-22 and 73-15-23, Mississippi Code
398 of 1972, which is the Nurse Licensure Interstate Compact and
399 provisions relating to the withdrawal from the compact, are hereby
400 repealed.

401 **SECTION 7.** This act shall take effect and be in force from
402 and after July 1, 2006.